

[7th January 1950]

THE HON. DR. T. S. S. RAJAN :—“ Sir, we have brought forward this resolution on a particular subject which is to be discussed. Meanwhile, we have received an adjournment motion by the Leader of the Opposition. If the business is finished before 5 p.m. at the latest, we can take up the adjournment motion after five and I hope it will be possible to finish it.”

MR. PRESIDENT :—“ I understand from the Leader of the other House that the other House is meeting on Monday and they are going to discuss the Panchayat Bill which is a very important subject, which must be finished there and come to this House for discussion. So I do not want to stand in the way of the legitimate work of the other House.”

DR. V. K. JOHN :—“ Sir, if necessary we can sit till 7 or 7-30 p.m. and finish the discussion.”

THE HON. DR. T. S. S. RAJAN :—“ If the House desires to sit longer, I have no objection.”

DR. V. K. JOHN :—“ This may be the last session of the House, for some. So they may be given some time to discuss.”

MR. PRESIDENT :—“ The adjournment motion will be taken up at 4 o'clock and after it is finished we may take up the discussion of the High Court. The Leader of the House may now move his resolution.”

III.—GOVERNMENT RESOLUTION.

CONSTITUTION OF A SEPARATE HIGH COURT FOR THE PROPOSED ANDHRA PROVINCE.

* THE HON. DR. T. S. S. RAJAN :—“ Sir, I move—

‘ that in pursuance of section 229, sub-section (1) of the Government of India Act, 1935, an address be presented to His Excellency the Governor of Madras in the following terms :—

“ May it please Your Excellency,

We, the Members of the Madras Legislative Council, request Your Excellency, to submit this address to His Excellency the Governor-General, praying that he be pleased by an Order—

(a) to constitute a separate High Court for that part of this Province which consists of the Andhra areas set out in the Schedule below, and with its principal seat at a place situated within the said areas, and

(b) to reconstitute the High Court in Madras with effect from the date of the constitution of the separate High Court aforesaid.

7th January 1950] [Dr. T. S. S. Rajan]

The Schedule.

(1) *The districts of—
Visakhapatnam,
East Godavari,
West Godavari,
Krishna,
Guntur,*

*Nellore,
Chittoor,
Cuddapah,
Kurnool,
Anantapur, and*

(2) *Adoni, Alur and Rayadrug taluks of Bellary district ”.*

“ The Government have decided that steps should be taken under section 229 of the Government of India Act for the creation of a separate High Court with jurisdiction over the areas which are included in the proposed Andhra Province and the existing High Court should be reconstituted so as to have within its jurisdiction the rest of the Province. A draft resolution has been prepared and has been approved at the meeting of the Partition Committee. . . . I am sorry I am reading the wrong paper. At the instance of the Partition Committee, this Government have already initiated action under Section 229 of the Government of India Act for creating a separate High Court for the Andhra area of this Province, so that the Andhra High Court may start functioning before the Andhra Province is brought into existence. This has been considered desirable for the following reasons :—

(1) If the matter is left to be dealt with under the New Constitution, legislation by our Parliament would be necessary and this would mean delay.

(2) If a separate High Court for the Andhra area is not set up under section 229 of the Government of India Act, the present High Court of the undivided Province would have to be given special jurisdiction to function as the High Court for the Andhra Province also (as was done in respect of the Patna High Court when the Orissa Province was formed), besides being the High Court for the residuary Madras Province where the principal seat of the High Court is situated.

(3) It is considered appropriate that each Province should have its own High Court, and that the arrangement of a joint High Court referred to in (2) above should be avoided. Though the High Court may be under that proposal, a joint institution for the two Provinces, it would be, on the administrative side predominantly controlled by the Government of the Province in which the principal seat is situated.

“ In this connexion attention is invited to paragraph 2 of the Minutes of the 12th Meeting of the Partition Committee.

“ As to what exactly is meant by principal seat of the High Court, no authoritative ruling seems to be available.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether a document which is not placed on the table of the House could be referred to in the House? The Hon. Minister is reading the proceedings of the Partition Committee.”

[7th January 1950]

THE HON. DR. T. S. S. RAJAN :—" I am only giving some information to hon. Members. If it is considered irregular, I would not give it."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" It is not a question of being regular or irregular. It is for you, Sir, to decide the procedure. According to parliamentary procedure, the Minutes to which the Hon. Minister has referred should be placed on the table of the House. On our part, we are not anxious to know what is contained there. We know that the Government will not give any information. But our duty is to protect the rights and legitimate demands of the hon. Members of this House. I seek your ruling, Sir, on this point whether the Hon. Minister can refer to a document which is not placed on the table of the House."

12 noon. SRI B. NARAYANASWAMI NAYUDU :—" Sir, when the recommendations are not made available to the Members of this House, can the Hon. Minister read extracts from the report of the committee? "

DR. V. K. JOHN :—" In answer to my question, Sir, the Hon. Minister refused to place the report on the table of the House. In fact, I wrote to you, Sir, that the Government be asked to place a copy of the report at the disposal of each Member so that we might have some authoritative document to rely upon when we speak on the Motion."

MR. PRESIDENT :—" When did the hon. Member write the letter he has just referred to? "

DR. V. K. JOHN :—" A few days back, Sir."

MR. PRESIDENT :—" I have not received the said letter."

THE HON. DR. T. S. S. RAJAN :—" Sir, the intention of the Government is that the Andhra Province should come into being before 26th January 1950, that is, before the date on which the provisions of the Constitution of India as a whole will come into force. The creation of a separate Province implies the creation.

MR. PRESIDENT :—" The point of the other side is that so far as this House is concerned, hon. Members know nothing about the Andhra Province—whether it is coming into being or not. That is why they want to see the recommendations of the Partition Committee. If the Hon. the Minister is prepared to accede to their demands, it is allright."

THE HON. DR. T. S. S. RAJAN :—" That is why, Sir, I am giving this information and you may decide upon the ruling after I have furnished the information."

MR. PRESIDENT :—" I would like to know from the Hon. the Leader of the House whether there is any great objection to making the Partition Committee's recommendations available to the Members of the House."

7th January 1950]

THE HON. DR. T. S. S. RAJAN :—“ Yes, Sir. We have now addressed a communication to the Government of India containing the recommendations of the Partition Committee. Until we get a reply thereto, we are not authorised to publish it.”

SRI R. SURYANARAYANA RAO :—“ Sir, the Partition Committee reported to this Government and not to the Government of India. So, I want to know whether this Government have any objection to placing the Committee's report on the table of the House. If the Government are not prepared to make the report available to us, may I know whether the Hon. Minister can refer to it the course of his speech? ”

THE HON. DR. T. S. S. RAJAN :—“ The decisions of the Partition Committee have been communicated to the Government of India. Whether we can release this document for publication in the Press or not is a matter that has got to be decided by us later on. I can give such information as may be necessary or required by this House to consider the Motion before the House, namely, the constitution of a separate High Court for the Andhra areas.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ My point is simple, Sir. I am grateful to the Hon. the Leader of the House for condescending to give such information as may enable this House to come to a decision on the Motion. The question is whether reference can be made to a document which is confidential and so cannot be made available to the Members, by a Minister in the course of his speech. This is a specific point which calls for a ruling.”

MR. PRESIDENT :—“ Will the hon. Member quote authority for such a ruling? ”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, the authority is well-known. I am sorry I cannot give you the exact portion dealing with the subject under discussion. I think it is in May's Parliamentary Practice where you will find that no document can be referred to unless it can be made available to the Members of the House.”

MR. PRESIDENT :—“ The Hon. Mr. Madhava Menon, stated in the other House that irrespective of the formation of the new Province, we could have two High Courts. So the Partition Committee's report need not come in now. I shall, however, give my ruling later on. Meanwhile, in view of the position taken up by the Government, I would like to know the intention of the Opposition. If reference to the report is thus prevented it means that the discussion cannot proceed in all its fullness? ”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ In view of the attitude adopted by the Government, I for one feel that no useful purpose will be served by the discussion in this House.”

[7th January 1950]

DR. V. K. JOHN :—" That is exactly the reason why, Sir, we are asking for a ruling from you."

MR. PRESIDENT :—" Yes. I shall now quote the relevant portion from May's Parliamentary Practice, and I think the Hon. Minister can take shelter under this. (Laughter.)

' A Minister of the Government is not at liberty to read or quote from a Despatch or other State paper not before the House unless he be prepared to lay it upon the table. This restraint is similar to the rule of evidence in courts of law, which prevents counsel from citing documents which have not been produced in evidence. The principle is so reasonable that it has not been contested; and when the objection has been made in time, it has been generally acquiesced in. It has also been admitted that a document which has been cited ought to be laid upon the table of the House, if it can be done without injury to the public interests. A minister who summarises a correspondence, but does not actually quote from it, is not bound to lay it upon the table '

The Hon. Minister has got something here to save him." (Laughter.)

THE HON. DR. T. S. S. RAJAN :—" I am not quoting at all, Sir. It is absolutely a speech of my own."

MR. PRESIDENT :—" The Hon. Minister may now go on with his speech."

JANAB K. T. M. AHMED IBRAHIM :—" May I know the ruling of the Chair, Sir? "

MR. PRESIDENT :—" I am only waiting to see what the Hon. Minister is going to do. I shall give my ruling then, if necessary."

THE HON. DR. T. S. S. RAJAN :—" Sir, the intention of the Government is that the Andhra Province should come into being, before the 26th January 1950, that is, before the date on which the provisions of the Constitution of India as a whole will come into force. The creation of a separate Province implies the creation of an independent High Court for the Province. It is considered that it will be desirable to bring the separate High Court into existence in advance of the creation of the Andhra Province so that as soon as that Province is created, the separate High Court may function in respect of that Province. There need then be only a simple provision in the Order of the Governor-General to be issued under section 290 of the Government of India Act, stating that the Andhra High Court will have jurisdiction over the whole of the Andhra Province. The only way in which a separate High Court can be constituted now for the Andhra areas of this Province is under section 229 (1) of the Government of India Act, 1935, which is now in force and which will continue to be in force until the 26th instant. Under this section, the Governor-General may, by order, constitute a High Court for any part of this Province if the two Chambers of the Legislature of this Province present an address to the Governor for submission to the Governor-General. The object of the Motion is to present an address to His Excellency the Governor in pursuance of section 229. His Excellency will submit the address to the Governor-General in due course.

7th January 1950] [Dr. T. S. S. Rajan]

“After the constitution of a separate High Court for the Andhra Province, it will clearly be necessary to re-constitute the existing High Court in Madras so as to limit its jurisdiction to the remaining or the non-Andhra areas of this Province. This re-constitution also has to be done in the same way as the constitution of the separate High Court, namely, by an address to the Governor to be submitted to the Governor-General. This explains the need for the second portion of the Motion before the House which prays for the reconstitution of the Madras High Court in consequence of the creation of a separate High Court for the Andhra Province.

“The principal seat of the Andhra High Court has necessarily to be situated at some place within its jurisdiction. This is, therefore, expressly mentioned in the Motion.

“If the constitution of a separate High Court for the Andhra area is deferred, it will have to be created by a separate law passed by Parliament, that is to say, by the Constituent Assembly functioning in its legislative capacity. This will take time, whereas the constitution of a High Court under section 229 will be by a simple Order issued by the Governor-General, and it is possible to issue this Order at once. There is no provision in the new Constitution corresponding to section 229 (1) of the existing Government of India Act. The subject of creation of a High Court will fall under Entry 78 of the Union List, viz., ‘Constitution and Organization of the High Courts.’ A separate High Court can, therefore, be constituted after the 26th January only by a law made in pursuance of this Entry, and the passing of such a law will involve considerable delay.”

MR. PRESIDENT:—“Motion moved—

‘that in pursuance of section 229, sub-section (1) of the Government of India Act, 1935, an address be presented to His Excellency the Governor of Madras in the following terms:—

‘May it please Your Excellency,

We, the Members of the Madras Legislative Council request Your Excellency to submit this address to His Excellency the Governor-General, praying that he be pleased by an order:—

(a) to constitute a separate High Court for that part of this Province which consists of the Andhra areas set out in the Schedule below, and with its principal seat at a place situated within the said areas, and

(b) to reconstitute the High Court in Madras with effect from the date of the constitution of the separate High Court aforesaid.

The Schedule.

(1) The districts of—

Visakhapatnam,
East Godavari,
West Godavari,
Krishna,
Guntur,

Nellore,
Chittoor,
Cuddapah,
Kurnool,
Anantapur, and

(2) Adoni, Alur and Rayadrug taluks of Bellary district.”

[Mr. President]

[7th January 1950]

There are some amendments given notice of and they may be moved now so that discussion on the original Motion as well as the amendments may go on."

* SRI B. BHIMA RAO :—" Mr. President, Sir, I move—
'that for the words "and with its principal seat . . . said areas" at the end of clause (a), the following shall be substituted:—

"and that the newly constituted High Court shall continue to function in a portion of the present High Court buildings to be set apart for the purpose till new buildings are erected and duly equipped elsewhere" . . ."

MR. PRESIDENT :—" There is another amendment in the hon. Member's name."

* SRI B. BHIMA RAO :—" That is an amendment which I have given notice of after my coming over here. I shall deal with that later. Presently, I shall speak on the amendment which I have just moved. Sir, as soon as I received this official Motion, I apprehended some trouble in the formation of the Andhra High Court as well as the Andhra Province. That is why, immediately on my seeing that, I proposed the amendment in order to enable the Andhra High Court to function in a portion of the premises in which the Madras High Court is now located. My Andhra advocate friends have a feeling or an apprehension that they would be asked to quit Madras on the 27th of January bag and baggage. In fact this was clearly noticeable in the face of my Andhra friends when I visited one of my friends in Gandhinagar Extensions, Adyar, with whom I am obliged to stay now as the Government Guest House is occupied by the delegates to the Agricultural and Economic Conference. All of them were wearing not smiling looks but were sorry for having to quit! My friend, I understood, had sold away his house fearing he might have to leave Madras. Many others have done likewise. Not only the advocates and landowners, but even High Court Judges entertain the same fear. So, I thought that some reasonable opportunity (laughter) must be given to them to adjust their affairs and make arrangements to pack their luggages (laughter) and leave this place. It is to provide for this that I have moved this amendment. And then, when I discussed the psychology of this matter I found that the fears apprehended were there, namely, that they must be asked to quit Madras on the 26th January bag and baggage. So also, some of the Judges were apprehensive as to what they should do and I thought some reasonable opportunity must be given for them to make arrangements to pack their luggages and to secure their lodgings elsewhere and go there. So, Sir, before coming here I apprehended these things and sent notice of the amendment and I was justified in the apprehension that I felt then. Especially when the resolution of the Working Committee was passed on the 17th November, according to the report of it in the papers, many of the important points therein were accepted by the Government. I found in the newspapers of that week that the Government of the proposed Andhra

7th January 1950] [Sri B. Bhima Rao]

Province was likely to be in Madras till a new capital had been decided upon at a later date. But I find from the reports in the newspapers during the last one week, it was decided that the Government wanted the capital also to be shifted forthwith and finally after further consideration and before they submitted their final report to the Government of India they scored it out and they agreed that the capital of the new Andhra Province may remain here and perform its functions on the executive side from here. When that is so, I think it is but reasonable that the High Court Judges also must be given some time, the litigants also must be given some time, to accommodate themselves to the new environment and adjust themselves. So, I gave notice of this amendment.

"Now, Sir, I was present throughout the debate that took place on this subject yesterday and the day before in the Assembly since I was much interested in the subject. Probably you are not aware of the fact that it was I that seconded the motion for the formation of an Andhra Province in April 1914, nearly 36 years ago, at Vijayavada at the instance of the late Nyapathi Subba Rao Pantulu on behalf of the districts of Rayalaseema. At that time I little suspected that it would recoil on my own district. In my buoyant mood and in my boyish days I seconded that motion little realizing that it would be translated into actual practice. Anyhow, I wish my Andhra brethren a happy career. I want them to have an Andhra Province with an Andhra High Court with all its paraphernalia. I only want that they should be given a reasonable time to adjust themselves to the new situation. It was only with that object I sent in my amendment. I find from the extract which my hon. Friend, Mr. Madhava Menon read out in the other House—he is not here just now—the Government also find that some reasonable time should be given to the Judges, to the Advocates, as well as to the litigants, to accommodate themselves and perform their functions either in the present High Court buildings or elsewhere within the City of Madras. When such an assurance had been given on the Floor of the Assembly quoting an extract from the final report submitted to the Government of India, I take that assurance. That is all I wanted. Again, Sir, especially when similar amendments have been given notice of by hon. Members of the other party in this House who are more interested. I do not like to cross swords with them, nor do I like to cross swords with my hon. Friend Mr. Vaidyanatha Ayyar who is staying with me, nor with the Hon. Advocate-General, Mr. K. Rajah Ayyar, who is also an old friend of mine, because their aims also are more or less similar to mine. Therefore, Sir, I do not like to press my first amendment."

MR. PRESIDENT:—"I find there is a motion for adjournment by the hon. Member, Mr. Narayanaswami Nayudu."

SRI B. NARAYANASWAMI NAYUDU:—"It is not an adjournment motion, Sir."

MR. PRESIDENT:—"I have got your motion here. If the hon. Member is not moving it, I will score it out. If he wants to

[Mr. President]

[7th January 1950]

move his adjournment motion, he can do so at any time. The object of the motion is that the consideration of this motion be adjourned."

SRI B. NARAYANASWAMI NAYUDU :—" It is not technically an adjournment motion. The motion is—

'that the consideration of this motion be adjourned pending the disclosures to this House by the Government of the decisions of the Partition Committee and the recommendations of this Government thereon in all matters and the resolution of this House thereon on such decisions to a date before 26th January 1950, if possible, or to a date beyond it if necessary.'

" I would like first of all to tell hon. Members why the Government have chosen to come here at all so far as the High Court is concerned when they had not the courtesy to come before this House so far as the Province is concerned. It is because the law allows it that they go to Delhi. Otherwise they have to come before this House. So far as the creation of the Province is concerned, section 290 of the Government of India Act, 1935, says : 'The Governor-General may by Order create a new Province.' But if he wants to create a new Province, what is to be done? The Governor-General shall ascertain the views of the Government of any Province which will be affected by the Order. Therefore, there is nothing in it to consult this House or any House, and so a Partition Committee was appointed, their proceedings started and they sent their report to the Government. But, so far as the High Court is concerned, there is another section in the Government of India Act and that is section 229 which says that the question must come before the Legislature. It says that where any court is reconstituted both the Chambers of the Legislature of the Province must be consulted. That is why they have come before us. (The Hon. Sri P. S. Kumaraswami Raja : 'Yes'). You would not have come here but for that provision. (The Hon. Sri P. S. Kumaraswami Raja : 'Yes'). I am glad the Hon. Premier is laughing over it. Probably he does not realize what it means. I will tell you what it is. Under the new Constitution Act, if you want to create a Province. . . . (The Hon. Sri P. S. Kumaraswami Raja : 'Then we have to come before the Legislature'.) So also for the creation of the High Court. It is stated in the Government of India Act that so far the creation of the Province is concerned, you don't consult the Legislature, but in regard to the High Court, you must consult the Legislature. That was a foreign Government and so they wanted to have such a power in their hands. But, what is it that your Government have done in Delhi? They have altered both the provisions relating to the creation of a Province as well as of the High Court and said that you must consult the Legislature. What I am now asking you is, when the Party to which you belong which was responsible for making such a provision in the new Act have stated that in regard to both these matters the Legislature should be consulted, you who represent that party which stands for democratic principles, what is it that made you not to come before this House? I know the reason. The same principle which was followed in making it obligatory on the Governor-General to seek the advice of the Legislature,

7th January 1950] [Sri B. Narayanaswami Nayudu]

should have been followed in this case also. The Hon. the Leader of the Party, the Premier of Madras, says we do not want to consult the House because the law allows it. (The Hon. Sri P. S. Kumaraswami Raja : 'We have not consulted it; not that we do not want to consult it'). You have not done it and you do not want to do it. Adhering to the principles, which I have stated before, are you prepared to place before the House the recommendations of the Partition Committee or do you fight shy of it? The matter does not lie there. It is a question of privilege. You have promised this House that you would consult us. Now what has become of that undertaking? Where is the hurry? You consult the Congress Party and do not worry about this House. You do not say what the Partition Committee has done. I see the Hon. Premier is nodding his head. What is it that made you go back on your promise that you would consult us before sending your proposals to the Government of India? The matter has been in the hands of the Government for several days. You have consulted the Andhra Provincial Congress Committee and you have not consulted this Legislature. When you have consulted your party why should you have not consulted this House? I think it is a breach of promise. It is a matter affecting the two areas, two nationals. Of course you can laugh it away. I ask, is it a partition or is it an elopement? A mistress, if she wants to run away from the house, they say in Telugu 'Chal Mohan Rung.' Is that what you are doing with the Andhras? Are they eloping with somebody? Do you want us to cut away and run as in the Telugu saying 'Chal Mohan Rung.' I now you will laugh it out and I know the reason for it also. But I want to know what is it that makes you say that before 26th January we should run away? Never mind whether we run away or not. It is not only a question of promise but it is also the question of Province; whether you like it or not we get it. Here, I am concerned only with the question of the promise already made. Is it the way of going on with the partition? We should part as brothers if you want us to go out from this Province. What is this 26th of January? Is it such an immense thing? As if the world will not live again after the 26th of January? We have known that Bills after Bills, ten or twelve Bills, have been rushed through this House. When such is the case, can you not rush through the Andhra Bill? What is it that you want to pretend to deal with? Is it because that after the 26th of January you cannot get a Bill for this purpose? Or, is it because that you cannot pass this Bill within a year or two in the Delhi Parliament? If you want a Bill to be passed I know you can rush through it. If you do not want it I know you can hush it. Therefore, you give delay as the reason. Delay has nothing to do. You say, take it or leave it. I say that both on grounds of democratic principle and in view of the promise you have made and also as a matter of fair play it is not a question of no Province at all. We do want a Province.

"Now, in regard to the question of the assets and liabilities of the Province, these are important matters. What does the section say?"

[7th January 1950]

MR. PRESIDENT :—“ The hon. Member has not given any reason why the matter should be adjourned.”

12-30
p.m.

SRI B. NARAYANASWAMI NAYUDU :—“ That is why Sir, I wish to refer to section 290 of the Government of India Act which contains the words ‘ adjustment and apportionment of assets and liabilities.’ If I am told after a partition I would be given 10 acres; is it not right for me to ask. I think I am entitled to 20 acres please let me know what you have given and what you have taken. You, know, Sir, that in a partition suit all the trouble arises with regard to adjustment and apportionment of assets and liabilities. Do you want the Andhra Province and the High Court? Yes, but at what cost, is the whole question and what is it that you are going to give me? The whole point is not merely the creation of the Andhra Province, or so far as this particular motion is concerned the creation of a High Court for the Andhra area, but what is the Partition Committee recommendation with regard to adjustment and apportionment of assets and liabilities. It is now directly a question of the High Court here because it is here before us. How much have the High Court Buildings been valued at and what will I get out of it. It should be an amount which represents what may be necessary in order to get suitable High Court Buildings. If the question of the capital has been mentioned, I shall be able to pose you many more questions and I am now only confining myself to the High Court. If we have to go out of this place to some place within the Andhra area, I wish to know what has been provided for it according to the recommendations of the Partition Committee. Let me know what is the value of the High Court and what its replacement value would be. Are we here to be like dumb driven cattle to be driven along as you please?. I say, Sir, the Government are liable to answer all legitimate questions and all questions germane to this question. Please do not confuse things; do not think that there will be an Andhra Province without these things being settled and you will have tea at Delhi and that *Chal Mohanrang* will go to the sands. I feel, Sir, this all hoodwinking. What is the meaning of the creation of an Andhra Province and the Andhra High Court to be situated in a place outside, to be shifted from the City? By all means, let there be partition but I wish to know what is it that I will have ; you may quote laws; you may quote the Government of India Act; you may say that there will be delays if it is to happen after the 26th January 1950. Do not imagine that people believe you when you say that the formation of the Andhra Province before the 26th January is absolutely necessary; do not hoodwink us by saying that after the 26th January, the Andhra Province will be zero and that before the 26th it is easy and therefore, we will have the Andhra Province minus the assets; what is the use of the partition without the assets? The division of assets is of fundamental importance. That is why I say: let us have the report of the Partition Committee and if it gives us a reasonable and an equitable amount which will please not the Hon. the Premier nor the Leader of the

7th January 1950] [Sri B. Narayanaswami Nayudu]

Opposition but the common man, then I shall have no complaint. You are following the precedent of the partition of Bengal and I tell you, Sir, seriously we will unsettle what is a settled fact to-day."

* DR. V. K. JOHN :—" Mr. President, Sir, a very reasonable request has been made not for adjourning consideration of the motion *sine die* but to discuss it after the Government places on the table of the House the documents which are necessary for a discussion of the motion. The re-constitution of the High Court and the constitution of a separate High Court for the Andhra area are matters concerned with partition. We have not seen the document but it may be that hon. Members might support the motion under the terms and conditions mentioned in the Partition Committee report; but supposing most of the terms are not acceptable, we are not going to support the motion. The essential condition for considering the merits of this motion is the consideration of the Report of the Partition Committee. Without knowing what the terms and conditions are why should we be called upon to support the Government in the creation of a new High Court? The documents could be brought here in ten minutes. It involves a very great democratic principle; in any democratic form of Government, the prestige, usefulness and dignity of the Legislature must be guarded. But now, Sir, the Legislature is not being taken into confidence on this very important matter and a portion of that report is brought before the House for consideration. The Legislature is supreme and the Government must have the confidence of the Legislature and I hope, Sir, the members of the Congress party on the other side of the House will also help to protect the dignity of the House. Why should the Government who are not over and above the Legislature and who are responsible to the Legislature, refuse to place such an important document on the table of the House to enable us to consider the merits of the report and to arrive at a decision whether we should support the motion or not and why should this House be treated with scant courtesy by the Government? I am sure they will not say that the whole thing is confidential: what is it that cannot be divulged? Everything has appeared in the press but we do not know whether they are accurate and therefore it is that we want accurate and authentic reports about their recommendations. I appeal to you Mr. President, Sir, that you must protect the dignity of this House and see that these papers are placed on the table of the House. I am sure it is within your recollection that when the Hon. the Leader of the House was reading his speech and referred to that portion, my hon. Friend, Dr. Lakshmanaswami Mudaliyar, took objection to it on the ground that the paper was not on the table of the House but unfortunately that point was not at all replied to. You will remember, Sir, that on the 17th November 1949—I did not then anticipate the adjournment motion which you have allowed and which is coming at 4 p.m.—the Leader of the House gave the House a solemn

[Dr. V. K. John]

[7th January 1950]

undertaking in reply to a supplementary question that the partition question would be discussed in this House and that they would not send up a Report to the Government of India unless and until the matter had been discussed in this House. He has forgotten that undertaking. We are after all the representatives of the people and we can give suggestions to the Government though they may or may not be bound by them. But nevertheless, they have to respect the opinions and suggestions of the House. Is it proper for the Government to virtually say that they would hide the document from us and yet call themselves a responsible Government; is it open to them to say: We will not let you know what the conditions and terms of the partition are but you pass this resolution. We must know something about it. This is not a public platform and the Government should understand that they are dealing with the members of the Legislature to whom, be it understood, they have given a solemn undertaking that they would be given an opportunity of discussing the terms and conditions of partition before the matter is finally sent up to the Government of India. Now they are practically coming and telling us "We have come to conclusions about the matter; we have reported our recommendations to the Government but we will not let you know what they are but we ask you to pass the motion to enable us to implement that Report." I ask, I appeal to the members on the other side, 'Are you going to extend your support to the Government of this province by sacrificing the dignity and usefulness of this House?' In fact one of the portions of the document, or rather report, as far as I can judge, says that this House should be extinguished. Are not members on the other side concerned with this matter at all? Are they going to support Government in whatever they do? Sir, on a former occasion, when members of the Opposition walked out of the Council refusing to take part in the further deliberation of this House—I think it is on the abolition of the zamindaris Bill—the members on the other side supported the Government in proceeding further with the Bill. I ask them to ask their Leader to produce the report, so that, at least they may read it and let them have their say in the matter. Sir, the present action of Government is just like treating us like school boys. I declare that this action will go down in the history of the legislature; it will be recorded that this Government had a party behind it, which voted for any motion brought by Government, irrespective of the fact that the dignity and usefulness of the legislature was in question. Sir, I am anxious that the Legislature should be respected, and so I want Government to produce the report so that we may discuss it here. So, Sir, I request them under rule 63, to reconsider their decision and place before this House the report in question. Perhaps they might get the motion passed by this House; but let them remember they will be before the bar of public criticism very soon, who will say that this Government, functioning on democratic principles, treated the Legislature with scant courtesy. So let Government bring the document, say, in five minutes, or ten minutes;

12.45
p.m

7th January 1950] [Dr. V. K. John]

let us adjourn for a few minutes and read it and then we shall discuss it on the floor of this House. I hope better counsel will prevail. I appeal to the Leader of the House to fulfil his promise to give us an opportunity to discuss the question of partition, before asking us to discuss the issue of reducing the present High Court to a lower status by creating another High Court for a few districts of this province. Sir, I strongly support the motion."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Mr. President, Sir, if I rise to participate in this debate it is because. I think, certain fundamental principles are involved, which ought not to be left out of consideration by a Legislature that is supposed to represent the people at large. I realise what amount of anxiety there is among my Andhra friends to form a province for themselves as soon as possible. I realise why it is that the date of 26th January 1950 has become important in their anxiety to form a linguistic Province. I realise if action is not taken under the Government of India, 1935, there will be the necessity under the new Constitution Act for this question to be referred to the Union Parliament, and that Parliament should discuss this question. I realise also that if such a discussion were to take place, a Babel of voices would be let loose in that Parliament for several other linguistic Provinces to be simultaneously formed with this new Andhra Province. As one who participated in a similar discussion here in 1947 and expressed my views, which was subjected to severe criticism, I find I have no reason to change my opinion on the question. I felt, on that occasion, when I saw a volley of questions being put by members on this issue, that I should make it clear to them that we are likely to blunder if we rush at such a pace. I have made that warning then. Sir, I do not want to stand in the way of the Andhra Province being formed if that Province is to be formed before the 26th January 1950. But the question of constituting a separate High Court is practically different from the question of forming a separate Province. I am afraid neither the Partition Committee nor the Government of India fully realized this when they discussed this question. Unfortunately the sentiments expressed by leaders of both parties lead one to think that the leaders do not represent the masses—leaders who, unfortunately, having realized they are now safe in their seats thought there was very little reason for them to consult the people. Sir, I make this bold statement, because those who formed the Partition Committee—and the Government also,—have not thought they should consult the people or this House or the other House, in spite of the promise made by Government on a former occasion on the floor of this House. How is it they have not done this? It is because either they have not realized their responsibility as leaders or they were afraid to consult the proper persons in the matter. Sir, strong words have been used about the unfortunate remissness on the part of the Leader of the House, who is in an unfortunate position. I quite admit, it is not his fault; for if he had his own way he would have consulted this House; but other forces had stood in

[Dr. A. Lakshmanaswami Mudaliyar] [7th January 1950]

his way. (Laughter.) But I want to say this: last time when an adjournment motion was placed before this House it was quite possible for Government to have allowed it, and then a very full discussion would have taken place. Was it not morally binding on Government to consult this House? An appeal was made to the Leader of the House, and on the basis of a definite and categorical assurance given by the Leader of the House, that the question would be placed before this House and the other House at the proper time, the adjournment motion was withdrawn. If the Government had an idea of keeping up their promise, why did they not bring this matter before this House before? I think it is one of the unfortunate Parliamentary remissness on the part of the Leader of the House, which we are not prepared to condone. Sir, I do not want to use strong words, as I do not want to prevent the partition of the province simultaneous with the bifurcation of the High Court. But I would like to refer to some relevant sections of the Indian Constitution Act which will come into force on the 26th January 1950. It is laid down in section 230 of that Act—

that Parliament may, by law—

(a) extend the jurisdiction of a High Court to,

(b) exclude the jurisdiction of a High Court from, any state specified in the First Schedule other than, or in any area not within, the state in which the High Court has its principal seat.

There is room, therefore, for the Constituent Assembly at a later stage to say that the High Court of Madras shall have a limited jurisdiction and that another High Court should be constituted for the rest of the areas which were originally within the jurisdiction of the Madras High Court. Then, there is another section, and that is section 231, which says—

Where a High Court exercises jurisdiction in relation to any area outside a state in which it has its principal seat, nothing in this Constitution shall be construed as empowering the Legislature of the State in which the Court has its principal seat to increase, restrict or abolish that jurisdiction.

In other words, if this High Court of Judicature at Madras had been left as it is by the present resolution not being passed in this undue, precipitate and almost indecent manner, there would be nothing to prevent the High Court here from functioning for both States, that is, even for the new State that is to be formed on the 26th January 1950. So would it not be in the fitness of things, would it not be in the soundness of administration and would it not be for the good of the masses of the people if this question is shelved? Where is the necessity for this Government to place a petition to His Excellency the Governor? What is the purpose that is going to be served by it? The Hon. Minister made a big statement, but he did not say anywhere whether the judiciary concerned was consulted in the matter. Sir, is it not of primary importance that we in this House, before partitioning the Judiciary, should know whether the Judiciary concerned had been consulted in the matter? Is it not of primary importance that we should know what the opinion of the Chief Justice of the Madras High Court is? Would it not be in the interests of soundness of administration of justice, which is after all of most vital

7th January 1950] [Dr. A. Lakshmanaswami Mudaliyar]

necessity for any State to maintain? For Governments come and go; those who now sit on the Treasury Benches quite possibly, at some time or another, or sooner or later, I hope, later, may sit on this side of the House; but the Judiciary goes on for ever. I ask, should not the Judiciary of the land be supreme. We want to build up a judiciary that is supreme, for it has to go into questions pertaining to constitution, questions of acts of Government and into decisions of Ministers and Premiers. It would be an unfortunate day for the progress of democracy in this Province if there were to be any idea that the Legislature can overrule the decisions of the High Court.

“ Then, there is one vital matter that I wish to ask. The Hon. Minister on behalf of the Government did not take the trouble to tell this House why this House was not consulted before sending the document relating to partition of the Province to the Government of India. Sir, in this particular petition it has been suggested that only certain taluks of Bellary should be comprised in the jurisdiction of the new proposed High Court. Sir, this is a fundamental thing to be considered. We have not been told on what basis this has been framed. Nothing has been said on why vivisection of Bellary district should take place. Mr. Bhima Rao recapitulated his early years of blundering (laughter) and he stated that as early as 1914 he brought this question of formation of Provinces on linguistic basis. Well, Sir, he is facing the boom-erang to-day in the vivisection of his own district! People imagine that it is language that binds them; people imagine that it is culture that binds them. There can be no greater myth than that. If to-day I feel I have a little bit of loyalty to my native district of Kurnool, it is because I have had contact with it for the last so many years by numerous methods like trade and commerce and diverse manifestations of public activities. So it is nothing short of madness to divide a district on so-called linguistic basis. I do not know whether the people of Bellary will find happiness after that. Even granting that they feel happy, let me state this. Here is involved a principle in regard to the administration of judiciary. Are we going to say that the people in the three specified taluks of the Bellary district will go to one High Court for settling their legal disputes with the people of the other taluks of the district and to another High Court in other cases? Have those who have suggested the constitution of the High Court on these lines thought of the enormous legal quibbles that will arise on account of conflict of jurisdiction? It is almost impertinent on my part, a mere medical man to speak on a subject connected with judiciary, especially in the presence of the greatest authority on law, the Advocate-General and the Law Adviser to the Government. But as a layman unaccustomed to go to courts except once very many years ago when as a young medical man I had to go to give expert opinion on medical side, I say that rushing through legislation for the creation of a new High Court in this manner has been done without bestowing sufficient thought. Mr. Narayanaswami Nayudu referred to

1 p.m.

[Dr. A. Lakshmanaswami Mudaliyar] [7th January 1950]

the manner in which the whole thing has been kept secret. I do not want to comment on that. But I do want to make a protest against the manner in which the Government of the country is being carried on with just one eye on the party to which the Government belong. I have made this protest at the budget meeting and I want to make the protest again. Are the Government going to consider that everybody who does not belong to their party is a political untouchable in this country? They say that after the 15th of August 1947 we are all united. But when it comes to positive action, they do not implement what they say. What has been done by the party in power in this and many other Provinces has given cause for thinking that those who fortunately or unfortunately do not subscribe to the views of that party are nothing but political untouchables. I do not want to refer to it. But when a series of vacancies have arisen in the Parliament of the country, the party thinks it desirable, just and fair that all the seats should be given only to its own partymen, to persons who are unknown and unknowable and of whose precedents and antecedents we do not know but of whose future we are certain we will not know. If the party carries on in that manner, I say it will be the death-knell of the future wellbeing of the party in which I as a non-Congressman am very much interested because that is the only stable political party that can give a tangible shape to the good Government of this country. I know there is no opposition worth mentioning except the opposition of fissiparous tendencies and tendentious political parties with revolutionary ideas whose coming to power will be the greatest disaster that can probably undo all the good that accrued to this country after the 15th of August. I speak not as a politician though I may be accused of being a politician. Sincerely and honestly I tell the Government that this is not the manner in which they should carry on the administration. To be sure that democracy will live, let them so conduct themselves as to ensure the future good Government and safety of this country: If our appeal falls on deaf ears, God help us!"

* SRI R. SURYANARAYANA RAO :—" Mr. President, Sir, after the eloquent words spoken by Dr. Lakshmanaswami Mudaliyar, I do not think I can add anything more in support of the motion of Mr. Narayanaswami Nayudu except to ask a few questions of the Government. You, Mr. President, interposed in the course of the discussion and informed the House that the Hon. Minister for Law had disclosed in the other House that a separate High Court could be brought into existence irrespective of whether the Andhra Province was formed or not. But in the course of his speech to-day, the Hon. Leader of the House said that the constitution of the new High Court was intimately connected with the creation of the Andhra Province. How can this Government, in whose hands fortunately or unfortunately the power to create a new Province is not vested, be sure that the Andhra Province is coming into existence? All that the Government

7th January 1950] [Sri R. Suryanarayana Rao]

of India have asked them is to consider certain points in connexion with the creation of the new province and submit to them their views. To presuppose that the Andhra Province will come into existence and bring forward this resolution appears to me to be like preparing the cradle before consummation has taken place. There is yet time. When the Government of India decide to create the Andhra Province, then this Government can come forward with a resolution of this kind. There is too much anticipation and I am afraid this Government are being driven to take this step because of the D-Day 26th of January 1950. Even the Members of the Treasury Bench, Andhras as well as Non-Andhras, seem to be very anxious to bring the Andhra Province into existence irrespective of the fact that many outstanding questions have yet to be amicably settled. From the information that we have gleaned from newspaper reports, we are not able to get a correct picture. We are not sure whether there is necessity for a separate High Court and whether the existing High Court could not function for some time till the location of the capital and other matters are settled.

"I do not want to go into the merits of the resolution. But I would like to say just a few words. The words 'Andhra areas' are used and a Schedule is attached. But on what basis did the Government consider that the areas mentioned in the Schedule are really Andhra areas? Has there been a boundary commission to decide what exactly should be the boundaries of the new province which should coincide with the boundaries of the jurisdiction of the Andhra High Court? It may be that a boundary commission may add more areas to the new Province or take away more areas and add them to the residuary Province. If the information published in the Press is correct, why did this Government tell the Government of India that there was no need for a boundary commission? Why do they fight shy of a boundary commission? How can they say that these are undisputed Andhra areas? Without a knowledge of actual conditions, no one can daresay whether a particular area is an undisputed Andhra area or an undisputed non-Andhra area.

"My hon. Friend Mr. Bhima Rao mentioned about the visit to Bellary of two Hon. Ministers who are members of the Partition Committee for ascertaining in the course of a few hours what the reactions of the people of the Bellary district are in respect of their inclusion either in the Andhra Province or the residuary Province of Madras."

SRI G. VENKATA REDDI :—"About the Bellary taluk only."

SRI R. SURYANARAYANA RAO :—"From what appeared in the Press, I find that they went to find out whether any of the taluks or the whole district should be included in the Andhra Province.

[Sri R. Suryanarayana Rao] [7th January 1951]

“What is the information that these Ministers gathered? As Mr. Bheema Rao said, more than ninety-five per cent of the people were in favour of keeping up Bellary district as a district unit.”

SRI G. VENKATA REDDI :—“Not at all.”

SRI R. SURYANARAYANA RAO :—“My hon. Friend, Mr. Venkata Reddi is speaking without knowing what has happened there. Some wanted the whole district to be included in the Andhra Province. But a majority of people were in favour of including it in the residuary Province. Let the report of the two Hon. Ministers who visited the place be placed on the table so that this House may know what the majority opinion was.

“I am raising these points to show that there is no certainty about the area to be included within the jurisdiction of the Andhra High Court. When there is no certainty even about the creation of the Andhra Province, why should the Government make so much fuss? Normally this House should have met on the 19th instant to consider the Village Panchayats Bill. But we are told that the date of the meeting has been advanced specially to consider this resolution on a subject on which a decision has yet to be taken. Why should the Government waste the time of this House and ask this House to put its imprimatur to the resolution without knowing what its implications are. The implications can be understood only when all the relevant papers are placed before the House.

“I have one more point to say because I may not be permitted to speak on the resolution as I have given notice of some amendments.”

MR. PRESIDENT :—“Amendments will come in later. This motion for adjournment of the consideration of the subject is being taken up separately.”

SRI R. SURYANARAYANA RAO :—“Then, without going into the merits of the resolution, I have very great pleasure in supporting Mr. Narayanaswami Nayudu's amendment. We may assure the Government that nothing untoward will happen if this resolution is discussed at a later date by which time I hope the Government will place all the relevant papers on the table to enable the House to have a complete picture.”

THE HON. DR. T. S. S. RAJAN :—“Sir, I thank the hon. Members who spoke on this motion. They have done their duty amply by warning the Government about the action they propose to take and the consequences of that action. It is right that they should warn us and I am thankful to them for that. But I would like to remind hon. Members that this question of Andhra Province is nothing new and that it has not been sprung upon them suddenly and overnight. The claim for a separate Andhra Province is as old as fifty years and the question has been constantly agitating the minds.”

7th January 1950]

DR. V. K. JOHN :—“ I take it that the motion for adjournment is moved under Rule 63. We would like to know whether the Government are opposing it on merits or not.”

MR. PRESIDENT :—“ The motion before the House is a substantial motion and discussion is going on on that. Reasons for and against it have been advanced. I take it that the Hon. Leader of the House is giving the reasons why the motion should not be accepted.”

THE HON. DR. T. S. S. RAJAN :—“ That is exactly so. Certain points were raised in the course of the debate on the adjournment motion. I am only replying to them and not going beyond. I have got to explain why we pursue the line of action that we have taken ; in fact, it is my duty to do so.”

DR. V. K. JOHN :—“ The motion is to adjourn the consideration of this resolution pending the Government's placing the relevant papers on the table.”

MR. PRESIDENT :—“ The motion is that the consideration of this resolution be adjourned. The hon. Mr. Narayanaswamy Nayudu has given his reasons why it should be adjourned. The Hon. Minister can now say why we ought to go on with this matter.”

1-15
p.m.

THE HON. DR. T. S. S. RAJAN :—“ Mr. President, Sir, by this motion we do not ignore all that has been said on this subject previously. This Government feel that they have responsibility in this matter as representatives of the people and that they are in duty bound to carry out the mandate given by the electorate in regard to the line of action to be taken on our assuming office. This Council and the Legislative Assembly have, on more than one occasion, repeatedly reiterated their demand for a separate Andhra Province. We have conceded their right to demand it and we have accepted their demand as well. Now what has happened is this. At a psychological moment in the history of this country, the time has come when action on that demand has got to be taken. What action the Government have proposed to take, I shall tell the House presently. (Interruption.) My hon. Friend Mr. Narayanaswami Nayudu goes on repeating something in Telugu, which I am not able to hear properly and the meaning of which also I am not able to comprehend. (Sri B. Narayanaswamy Nayudu : ‘ I said, it is all Mohan Rung.’) I do not know what that Rung is, Sir; but I know of only one rung and that is the rung in my place! (Laughter.)

“ Now, Sir, this question is not one to be laughed at or to be ridiculed. It is really a serious question. We know that this agitation for the separation of the Andhra Province has been a very old one and people have been agitating for it all the time and it has now reached such a stage as to make the administration of this Province almost difficult and so the Government have decided that unless this question is solved here and now, there will be no peace and they cannot carry on the Government any

[Dr. T. S. S. Rajan] [7th January 1950]

longer. In the interests of our administration, therefore, we have been obliged to take the action we have done. What is it that we have done? The Government in response to the public demand have formulated certain proposals and have proposed to follow certain lines of action laid down for the purpose by the Government of India Act. In connexion with this matter, the Government of India have asked this Government to take certain steps in regard to the creation of a separate High Court for the Andhra Province, comprising certain districts and certain areas. You know, Sir, that the separation of the Andhra Province raises a number of issues to be settled and a number of details to be worked out and a number of claims to be adjusted. Therefore I do not see anything wrong in hon. Members raising various questions on the floor of this House, for instance, the question of finance, the division of the assets and liabilities, the distribution of areas, etc. In fact, we have considered all these matters and have settled most of the issues raised at the Partition Council and have come to certain decisions and conclusions. We shall certainly place all the papers relating to this subject and also all the proceedings that had taken place at the Partition Council before hon. Members of this House. But the time for it has not yet come. They are all in a confidential stage now. That is all I have to say at present.

“ It is true that in response to the requests made by the members of the Legislature I had promised to place the papers on the table of the House but since then things have taken a different shape.”

MR. PRESIDENT :—“ The Hon. Minister may perhaps reserve it for a later occasion when he replies to the adjournment motion.”

THE HON. DR. T. S. S. RAJAN :—“ Sir, I have necessarily to refer to it here because I need not state it again when I deal with that question later on. Sir, I was just explaining why we have not been able to place the papers before the House as promised by me on a previous occasion. I have to say that this thing has been thrust upon us by the Government of India all of a sudden, without due notice and without sufficient time being given to us to think over the matter and that is because they wanted to advance the date of giving effect to the actual separation, solely motivated by the fact that the present psychological moment in the history of our country should not be missed and that this opportunity should be taken to bring into existence the Andhra Province, before the inauguration of the New Constitution. So, Sir, there is nothing unnatural about it. For this purpose, we have been asked to adopt a certain line of procedure laid down in the Act with regard to the constitution of a separate High Court for the new Andhra Province. We had therefore to take up that question first and to make a recommendation to His Excellency the Governor-General by means of a resolution from this House. I have more than once stated that it is our earnest desire to see the early fruition of the Andhra Province and it is that which has prompted us to take the action we have done.”

7th January 1950] [Dr. T. S. S. Rajan]

" I quite understand that this matter might have been taken up at leisure, but the fact that we have taken it up now at this psychological moment, when the separation could be effected with advantage to both parties and with the concurrence of the Central Government is a thing over which we could take a justifiable pride. The one obstacle that stands in the way of separation, apart from the separation of the legislature, is the provision of a separate High Court for the administration of justice in the areas covered by the Andhra Province, when it is newly formed."

SRI B. NARAYANASWAMI NAYUDU :—" At what cost ? "

THE HON. DR. T. S. S. RAJAN :—" The question of cost is always there. Let us not worry ourselves about it here. It is open to you to raise the question at the proper time, and have it settled on some equitable basis. That need not stand in our way and that is not the matter that is at issue here."

" Now Sir, what we have done in this Resolution is simply this. As a first step towards the fulfilment of our desire to constitute the Andhra Province, we have, in the Resolution before the House, requested the Governor of this Province to address His Excellency the Governor-General of India to take steps to constitute a separate High Court for the Andhra Province in accordance with the wishes of this Legislature. Let my Andhra friends tell me that this is wrong or useless or against the fundamental demands that they have made. If it is in accordance with their wishes, they must support this Resolution. As I have already mentioned, this suggestion came from the Government of India, because that is the procedure laid down in regard to this matter. The Government of India have been in constant touch with the people who have demanded the formation of the Andhra Province and it is they who have suggested this course of action, so that we could evolve a High Court as early as possible to enable the new Province to function effectively. Therefore, Sir, it is not possible for me to accept the motion of my hon. Friend Mr. Narayanaswami Naidu, so ably supported by Dr. Lakshmanaswami Mudaliyar and the hon. Leader of the Opposition."

SRI B. NARAYANASWAMI NAYUDU :—" Mr. Speaker, Sir, I have nothing to say except to point out that no reply has been given to the points raised by me and no case has been made out by the Hon. Leader of the House for the consideration of this resolution. The question of the partition of this Province is not a fundamental issue. But what are the terms of the partition? What are the terms of the decree? What are the terms which you are going to recommend to the Government of India for the partition of the Province? These are the things we want to know. You cannot go on round and round. We want to know the actual terms of the partition deed. We want the recommendations of the Partition Council which have given the decree. We want you to place the Partition Council's Report on the table of this House. That is my object in moving this motion and I cannot therefore withdraw it, Sir."

[7th January 1950]

SRI A. GOVINDACHARYULU :—" May I know, Sir, if this motion is carried, what will happen to the adjournment motion on the question of the separation of the Andhra Province to be moved by the hon. Leader of the Opposition? "

MR. PRESIDENT :—" The Andhra Province question is not before the House. The only question before the House is the constitution of a separate High Court for certain areas in the Andhra Province. If the motion is carried, then the Resolution will be adjourned.

" Now the question is—

' That the consideration of this motion be adjourned pending the disclosure to this House by the Government of the decisions of the Partition Committee and the recommendations of this Government thereon on all matters and the resolution of this House thereon on such decisions to a date before 26-1-1950 if possible, or to a date beyond it if necessary '."

The motion was put and lost.

A poll was demanded.

MR. PRESIDENT :—" The question is—

' That the consideration of this motion be adjourned pending the disclosure in this House by the Government of the decisions of the Partition Committee and the recommendations of this Government thereon on all matters and the resolution of this House thereon on such decisions to a date before 26-1-1950 if possible, or to a date beyond it if necessary '."

The poll was taken and the House divided as follows :—

Ayes.

- | | |
|---------------------------------------|---------------------------------|
| 1 Dr. V. K. John. | 7 Sri R. Suryanarayana Rao. |
| 2 Janab Abdul Latif Farookhi. | 8 Janab K. Uppl. |
| 3 Dr A. Lakshmanaswami Mudaliyar. | 9 Janab K. T. M. Ahmed Ibrahim. |
| 4 Sri B. Narayanaswami Nayudu. | 10 Janab S. K. S. S. Rowther. |
| 5 Sri H. M. Jagannathan. | 11 Sri A. Gopalakrishna. |
| 6 Sri M. D. T. Kumaraswami Mudaliyar. | |

Noes.

- | | |
|---|------------------------------------|
| 1 The Hon. Dr. T. S. S. Rajan. | 11 Sri S. K. Satagopa Mudaliyar. |
| 2 The Hon. Sri J. L. P. Roche Victoria. | 12 Sri K. Natarajan. |
| 3 Sri L. Subramaniam Reddi. | 13 Sri M. Sudarsanam. |
| 4 Sri M. Naraiana Menon. | 14 Sri A. Govindacharyulu. |
| 5 Sri S. B. Adityan. | 15 Sri O. P. Ramaswami Reddiyar. |
| 6 Sri K. Venkataswami Nayudu. | 16 Sri N. Ranga Reddi. |
| 7 Sri N. Venkatachalamaji. | 17 Sri G. Venkata Reddi. |
| 8 Sri N. Sankara Reddi. | 18 Janab K. Muhammad Rahimatullah. |
| 9 Sri M. Narayana Rao. | 19 Dr. P. S. Srinivasan. |
| 10 Sri P. Veerabhadraswami. | |

Neutrals.

- | | |
|---------------------------|-------------------------------|
| 1 Sri B. Bhima Rao. | 4 Sri S. A. S. Rm. Ramanatham |
| 2 Sri T. Purushotham. | Chettiar. |
| 3 Sri N. Ramabhadra Raju. | 5 Sri M. K. Sundarama Ayyar. |

Ayes 11 ; Noes 19 ; Neutrals 5.

The motion was declared lost.

The House rose for lunch to meet again at 2-30 p.m.

7th January 1950]

(After lunch—2-30 p.m.)

MR. PRESIDENT :—“ Discussion will now proceed on the original motion.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether the general discussion is on the main resolution.”

MR. PRESIDENT :—“ Yes. There are some amendments also.”

DR. V. K. JOHN :—“ I suggest that amendments may be moved, and then we can discuss both the amendments and the resolution. Mr. Suryanarayana Rao may move his amendment now.”

MR. PRESIDENT :—“ Both the resolution and the amendments will be discussed.”

SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, I move the following amendments, namely :—

(1) *In item (1) of the Schedule omit “ Chittoor, Cuddapah, Kurnool, Anantapur, and ”.*

(2) *Omit item 2 of the Schedule.*”

The Advocate-General is here. May I know whether he would like to speak in the beginning or reply at the end.

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—“ If there is any legal point raised which requires clarification or explanation, I should like to speak.”

DR. V. K. JOHN :—“ The proper course is for the Advocate-General to explain the legal position as disclosed by the resolution so that we may follow and be guided by it. He is not here only to answer questions. He may be given another chance to answer questions. Let us first know what is the legal position.”

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—“ The legal position has been explained by the Hon. Minister who moved the resolution. Therefore, unless there is any difficulty which is pointed out, there is no need for me to intervene at this stage.”

SRI B. NARAYANASWAMI NAYUDU :—“ It is said that the High Court should have its seat inside the area of the Andhra Province. It is said that they can utilise the High Court buildings here and the Hon. Judges of the High Court can also sit here. Is that procedure legally correct? If that is legally correct, is the filing of cases to be done outside this area, and hearing of the cases should take place here? It means that there will be the Registrar and the Admission Court outside this place, and the regular sittings of the High Court will be held here. Is that the legal implication? Assurances are not legally binding. The legal points require clarification.”

[7th January 1950]

MR. PRESIDENT :—“ It is better that the hon. Member mentions these points when he speaks. I think the Advocate-General will reply to these points.”

* SRI R. SURYANARAYANA RAO :—“ Sir, as it is pointed out by the Hon. the Leader of the House, this resolution has been brought forward in connection with the proposal for the creation of the Andhra High Court. Though the Government were not pleased to place all the papers on the table of the House, the Hon. Minister read out to us the resolution of the Partition Committee, which the Government have accepted, and in which the creation of a separate High Court for Andhra Province forms part of the whole scheme. As you are aware, Sir, I have spoken more than once in this House that I am against the division of the Province on linguistic basis. I am against it for reasons economic and otherwise. I am against the inclusion of the districts, which I have mentioned in my amendment, in the proposed Andhra Province. My reasons are that these districts are what are called the backward areas. Their economic development should be the main concern of any administration. From such information as has been vouchsafed to us through the Press, we find that the financial position of the new Province will be such that it would not be in a position to undertake large schemes of economic development affecting the welfare of the people of these districts. It was stated by the Dhar Commission that the new Province, when created, would have a deficit of Rs. 6½ crores. I understand that according to the Finance Sub-Committee, whose report the Partition Committee has accepted (and perhaps the Madras Government also have endorsed), the deficit is supposed to be Rs. 1 crore. How they have arrived at this figure, we are not able to see unless all the papers are placed on the table of the House. But I suspect that certain items which the Dhar Commission included in arriving at the deficit, have been omitted. The Dhar Commission mentioned Rs. 40 lakhs as the interest charges on the cost of construction of the new capital. But the Partition Committee and the Madras Government seem to think that Re. 1 crore is enough to build a new capital. (Interruption.) The capital, the High Court, and all other things go together. How has this Rs. 1 crore been arrived at? Has it been arrived at on the book value of the existing buildings in the headquarters? We do not know whether those who arrived at this figure had any conception of what the present cost of construction of buildings is. Evidently this Rs. 1 crore is not going to be enough, and so the new Province will have to find money to build the capital with its depleted assets. According to rough calculations made by the Chief Engineer (Public Works Department) the approximate cost of construction of the new capital based on 1948-49 rates would come to Rs. 10 crores. As we are all aware, the new capital of the East Punjab Government is also expected to cost Rs. 10 crores. Should not this new Province that is to be brought into existence have at least this Rs. 10 crores to bring into existence all the buildings and other appurtenances that are necessary for a capital? There seems to have been some omission in regard to overhead

7th January 1950] [Sri R. Suryanarayana Rao]

charges. The overhead charges are bound to be equal to, if not more than, those that will be incurred in respect of the residuary Province. The Dhar Commission has put Rs. 75 lakhs as the overhead charges. I do not think, taking into account the number of officers and the duplicated machinery which will result by the creation of the new Province, that this Rs. 75 lakhs provided by the Dhar Commission was an over estimate. I have quoted these two instances to show that the new Province will begin with many financial handicaps. This morning the hon. Member Mr. Narayanaswami Nayudu raised the question of assets and liabilities. That is a pertinent point, because it is upon the assets of a Province its credit will depend. That these assets will soon disappear, is evident from the fact that in the published accounts it is suggested that this Re. 1 crore, the ultimate deficit arrived at in respect of the new Province, has to be made good by drawing on the reserve of Rs. 10 crores that will be given. That means, Sir, unless the new Province is able to find enough funds to carry on the day-to-day administration by other sources, perhaps by extra taxation, it will have to depend mainly on these ten crores which the non-Andhras seem to have so generously given and about which much is made of.

2-45
p.m.

" Sir, the Dhar Commission, after taking into account all these things, said : ' As far as it can be envisaged now, the financial position of the Andhra Province is frankly disquieting. It is not enough to contemplate that in a few years' time it might be possible for the Government to husband its resources so as to find adequate funds for the day-to-day administration. What is more important is that the Province must have sufficient means to carry out the various development schemes which are of vital importance to the people of the Province.' The new Province will begin, as I said, with many financial handicaps and will not be in a position to undertake schemes of development especially in the districts of Rayalaseema. These are not the only handicaps. The new Province has to find money to the extent of ten crores for proceeding with the Machkund Project. It is in the course of construction and out of Rs. 13 crores of the sanctioned estimate already Rs. 3 crores have been spent. It is a joint project undertaken in co-operation with the Government of Orissa, and it must be carried through. So, the balance of Rs. 10 crores has to be found.

" Then, this new Province has to find immediately 4 crores for paying compensation to the zamindars according to the new Bill that will be introduced. Again, the new Province has been saddled with the responsibility of completing the Tungabhadra Project. The original estimate of this Project was Rs. 20 crores. So far about Rs. 5 to 6 crores have been spent. The new Province has to find Rs. 15 crores though later on the residuary Province perhaps will pay half of it, as announced in the papers. There is a hydro-electric scheme which costs Rs. 8 crores. All these funds have to be found by the new Province. How long will these ten crores last if they have to fall back upon these for the purpose of carrying out their schemes besides meeting recurring deficits?

[Sri R. Suryanarayana Rao] [7th January 1950]

Then, there are a number of schemes. The Pennar-Kumudavati Project costing Rs. 20 lakhs of rupees and the Upper Pennar Project costing Rs. 84 lakhs of rupees are the two projects which have already been sanctioned and for which even foundation-stones have been laid. Are they to be the grave-stone to remind the generations to come of the folly of those who entered into this new Province knowing that the new Province would not be in a position to carry out these schemes? There are two other projects ready. The Gandhikota Project costs Rs. 4 crores and Bairavai Thippa Project costs Rs. 82 lakhs. There are some other 50 small schemes altogether estimated to cost Rs. 60 lakhs. Wherefrom is the new Province to find funds for these? The result will be much unproductive portion of the outlay on these schemes will have to come out of current revenues or loan funds. It is doubtful whether loans are available. When this composite Province could not secure six crores from the Central Government, how will it be possible for the new Province, with only ten crores as revenue, to raise the large sums required to carry out all these projects? The backward areas will be a drag on the new Province and I would suggest the new Province having the jurisdiction of the new High Court confined only to those districts which will not be a drag.

There are also a large number of hydro-electric and thermal schemes which have been sanctioned. I have already mentioned the hydro-electric scheme connected with the Thungabhadra Project is estimated to cost Rs. 8 crores. The Jog scheme which is now in operation ultimately cost Rs. 50 lakhs. The Kurnool and Cudapah thermal schemes have been sanctioned at a cost of Rs. 145 lakhs and Rs. 142 lakhs respectively. Then there are the Tadpatri and Nandyal schemes costing Rs. 11 and Rs. 15 lakhs respectively. The new Province, faced by many financial handicaps, will not be in a position to undertake any of these schemes which the composite Province has sanctioned and I feel the composite Province with all its resources may be able to raise the funds required by and by and be able to complete these schemes. But if it is left to the new Province with such huge deficit facing it, even for recurring expenditure, it would not be possible for it to carry out any of these schemes. I am afraid the future of these districts is very dismal. I will not blame the new Province if it is not able to carry out all these schemes because it is not for want of goodwill on the part of those who will be in charge of the administration of the new Province but it is due to the initial handicaps with which they are faced—the difficulty of raising enough funds. I feel that is the point of view to be considered. As the Leader of the House said, this resolution is intimately connected with the question of the formation of the Andhra Province and the inclusion of these districts in the Andhra Province would not be to the advantage of these districts and their economic development is bound to suffer. With these few words. I move my amendments.”

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ Sir. I second the amendments moved by Mr. Suryanarayana Rao.”

7th January, 1950]

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, I shall confine myself at the outset to the general discussion on the resolution that is before the House. I am addressing specially my Andhra Friends. I am entirely at one with Mr. Suryanarayana Rao when he said that we are not enamoured of the Andhra Province. Of course, I am one of those who feel strongly that the Andhra Province must come into existence. But it is one thing to say we want to have the Province; it is another thing to say we want the Province on the spot. When I ask for an adjournment of the resolution in order that the Government may place on the table of this House the position of the assets and liabilities of the new Province to be created, not a word has been vouchsafed to us. What is it that we have been told? The partition must be effected and we want the partition. But what we want to know is what are the terms upon which you are agreeing and you want the House to endorse that partition? Let it not be misunderstood in any way. The hon. Member from Anantapur is asking me ‘after the J.V.P. Report, what is it that we have to do?’ What does the J.V.P. Report say? It says we shall have the Andhra Province without Madras. But the J.V.P. Report does not say ‘we shall have the Andhra Province with nothing, with an empty pocket.’ Does it say that we must walk away without receiving anything at all from the things that have been accumulated here? Not at all. It says ‘you can have a division of all the assets and liabilities’. The real point to discuss is not merely that there should be Andhra Province but whether we should have the Andhra Province without anything at all, a Province merely comprising territories and hills and dales without the capital and building. I certainly value the Madras buildings. It is not a joke. It has been the accumulation of several centuries. I ask a plain question in reference to this debate—the Secretary to the Partition Committee is also here—what is the value that you are going to give with regard to the High Court Buildings? How many buildings are there in Madras? I am submitting to the President whether we can go on with the discussion at all. What is the use of this discussion unless we know what are the assets and liabilities agreed upon? The Governor-General’s order will be not merely for the creation of Andhra Province. Section 290 of the Government of India Act, 1935, says that the Governor-General’s order may contain such provisions as the Governor-General may deem necessary or proper for apportionments and adjustments of and in respect of assets and liabilities. It is on that point that we are here. The J.V.P. Report is independent. Gandhi cap and all these things are not at all relevant to the discussion. We are only concerned with the adjustment in respect of assets and liabilities. Why does not the Government say plainly ‘these are the assets you are going to get and your liabilities are so much.’ I have seen in the countryside persons writing arbitration agreements. They will sign in blank paper giving authority to the arbitrators to fill up what they want. Is that what you want? In all plainness I ask especially the Andhra Members ‘Do you want to sign an agreement on a blank paper

[Sri B. Narayanaswami Nayudu] [7th January 1950]

which can be filled up by the persons concerned so that it might be a zero or it might be a minus? Can we be a party to it? Shall we sign stamp papers so that the arbitrators, whoever they may be, might do whatever they please.' It is a dishonour. Even now I appeal to the President to compel the Government to disclose what are the assets and liabilities. It is not that we want the Madras City."

MR. PRESIDENT :—" Since the hon. Member has appealed to me, I must inform the hon. Member that the motion is there and he might accept it or not accept it. I cannot compel the Government to do what they are not prepared to do. So, it is open to the hon. Members to accept the motion or reject it."

SRI B. NARAYANASWAMI NAYUDU :—" We suppose there is a residuary power in the Chair to compel the Government to disclose the facts. Even now may I know from the Leader of the House what is the value they have given to the High Court Buildings? What is the compensation they are paying for them? I ask the Andhra Friends 'Are you bound to sign this report? Are you prepared to sign it without knowing what it is? Is it fair or right on your part?' I can understand other persons doing it. It is their duty to vote against me. It is quite right on their part. But I ask the Andhra Members, 'Do you want the Andhra Province at all costs' or 'at fair and reasonable costs'? In other words, 'do you want to accept one crore of rupees in order to get Andhra Province on the 26th of January'? Do you want to forego your claim for Rs. 26 crores? Do you want to have the Andhra Province on the 26th January 1950 minus Rs. 26 crores or do you want to fight for the Andhra Province with Rs. 26 crores'? That is the main issue before you and when you vote for it, vote for it understanding the issue. When I asked whether the Andhra Members wanted Andhra Province on the 26th January without Rs. 26 crores, the hon. Member from Anantapur interjects 'wonderful' I am not able to understand it. We must have the full details. These are days of democracy and public opinion will alone count. So, let it be publicly stated. We will accept and walk out. What is the book value and what is the replacement value of the High Court Buildings which you have given? Never mind the total amount. After all it is an adjustment of a figure. If you give that information about the book value and the replacement value of the High Court Building, by all means it will be accepted. There will be courage and there will be wisdom in it and everybody will accept it. As regards the non-Andhra Members, I have nothing to say. They have got every right to stress their claims. But what about our Members? What is the exact book value and replacement value of the High Court Buildings? I know that we cannot get that information. That is one part of the question. My amendment says 'Delete the words "and with its principal seat at a place situated within the Province"' occurring in clause (a) and in item (1) of the Schedule before the word 'and' insert the words 'the northern half of

7th January 1950] [Sri B. Narayanaswami Nayudu]

the High Court Buildings in the Madras district'. To my mind, this is a very important amendment. People must understand the implications underlying this. The implication is that I am not claiming Madras to be made as either an Andhra territory or any such thing. I am not laying any claim to the Madras City. So far as the City of Madras is concerned, we are bound by the agreements that were reached before. We have surrendered our claims to Madras City. But we have not surrendered our claim for compensation for giving Madras City. We do not want Madras City. But we want compensation and if we have not said that we did not want compensation, then it is all right. But we have not said that. I have got a right to ask the Andhra Members to say what is the compensation that they have agreed to get. No answer to it. The hon. Member from Anantapur who said that my remarks are wonderful might perhaps be able to give the answer. I know definitely the Leader of the House will not give the answer."

THE HON. DR. T. S. S. RAJAN :—" I am sorry it is not desirable for me to disturb the hon. Member while he is speaking."

SRI B. NARAYANASWAMI NAYUDU :—" In the absence of any assurance given by the Government that the compensation will be so much and in the absence of an equitable compensation, there will be no use. You will get *Chal Mohanrang*. In my amendment I did not say Madras Town. I have only asked the northern half of the Madras High Court and nothing more and nothing less. So I am not asking the whole Madras City. If the northern half of the High Court Buildings are given, that would solve the question in many ways. This is nothing new. When there is partition between two brothers, one might say 'Well, I will live in one of the rooms till I get another for myself'. Similarly, we want the northern portion of the High Court Buildings. We will live there and carry on our work till we get our own buildings in our territory. I will give you an assurance that as soon as we get our building, we will hand back the High Court to you. I would like to know what is the assurance that will be given from the other side. I am only asking for a portion of the High Court Building. I am told, 'Why do you want an assurance. You can carry on your judicial administration at the mercy of the Madras Government.' That is what they say. Is the assurance that will be given by the other party more honourable and the one given by us less honourable? Is the one to be Hitlerite and the other Churchillian? I want clarification on this point. I would like the Advocate-General to give his opinion unequivocally on this point. What is the meaning of the assurance that we can carry on administration and justice from Madras? The High Court will be placed in an area in the Province. Say, that it will be located in Anantapur, say, that it will be located in Vijayavada and say that it will be located in Masulipatnam. That means the Registrar's office and the Judges must be there, and the Government offices must be situated elsewhere. How it is possible? Is it only half truth, the full truth being that the office should be situated in an area outside the

[Sri B. Narayanaswami Nayudu] [7th January 1950]

Province where the Registrar will receive papers and other things, and the Judges will sit somewhere else and carry on their work? I want to know whether the filing of appeals and suits would be done at the seat of the High Court within the Province and the regular sitting of Judges and hearing of cases would be done in Madras. I ask whether it is correct. What is the meaning of saying that you can carry on the work in Madras and also have a place outside the City. There is a provision in the Constitution Act that the Federal Court may sit in Delhi and such other place as may be approved by the President. So also, the High Court of Andhra Desa may be located somewhere outside its jurisdiction and carry on its work. Otherwise do you mean to say that there must be a filing officer and receiving officer in one place and the hearing and disposing Judge in another place. That means the clients will have to go to the mofussal for filing their appeals and suits and must come to Madras for arguing their cases. All this would result in great waste of time, money and duplication of work. There are then some legal implications. I ask a straight question whether all this is in order. If the Advocate-General could explain the legal position and give a convincing answer to my question straightaway even now, I will withdraw my amendment."

THE HON. DR. T. S. S. RAJAN :—" May I point out, Sir, that this sort of personal discussions—questions and answers and again speaking on the answers given—and all these things do not show any point and I do not know where all this will end. My contention is that such statements are entirely out of order."

MR. PRESIDENT :—" It is only a request for information. If the Hon. Leader of the House is prepared to give, it is all right. Otherwise he will go on. He wants only clarification whether the Registrar would sit in one place and receive applications, etc., and the Judges will sit in another place and attend to the disposal of suits and applications. He only wants to know what is the idea of the Hon. Leader of the House. If he is prepared to give this clarification, he may give."

SRI B. NARAYANASWAMI NAYUDU :—" I wanted the Advocate-General to enlighten us on this point. As there is no answer I will take the premises that my views on this point are correct. If you want to have a High Court for Andhra, there must be a place. In order to obviate that difficulty I said in my amendment give us the northern portion of the High Court in the Madras district. What did Yudhishtira, the originator and author of Mahabharata ask? He wanted only five villages where he and his brothers could live. He said, 'Give us five villages. We five brothers will live there and carry on our work.' So also, I ask the Government of Madras, 'Please give us the northern half of the High Court Buildings. We will carry on for the present.' If this is accepted, to-morrow in the Order-in-Council which may be issued by the Governor-General, it will be stated that the 'High Court of Andhra will for the present be located in the northern half of the Madras High Court'. If this is done all the bother

7th January 1950] [Sri B. Narayanaswami Nayudu]

will be saved. There will be absolutely no trouble at all. We will carry on our work from this place and as soon as we get our buildings, we will not stay here and will walk out."

MR. PRESIDENT :—" Let the hon. Member proceed further. I hope he will finish his speech soon."

3-15
p.m.

SRI B. NARAYANASWAMI NAYUDU :—" Sir, this is not the proper way to do it. I only say, 'let us not be blind-folded and let us not sign the document blindly'. I want to know what the assets and liabilities are and how they have been divided. At least, I want to have the book value and the replacement value of the High Court. I want these figures and I hope the Government will not burke them."

SRI A. GOPALAKRISHNAYYA :—" Sir, I second the amendment."

SRI B. BHIMA RAO :—" Sir, are the amendments to be moved all together?"

MR. PRESIDENT :—" I think it would be better because discussion could go on all of them as well as the original motion. I suppose the amendments moved by the hon. Member have been withdrawn."

SRI B. BHIMA RAO :—" Sir, I do not press my first amendment in view of the assurance given by the Hon. the Minister."

MR. PRESIDENT :—" I take it that the hon. Member does not press his first amendment and also does not move the second one in his name."

SRI R. SURYANARAYANA RAO :—" Mr. President, Sir, I move—

'that item (2) of the Schedule be deleted'

Sir, I forgot to move this amendment and I thought that Mr. Bhima Rao would step in to save me. The second item in the schedule seeks to include the three taluks of Bellary in the Andhra Province. In the course of the discussion on the adjournment motion I mentioned that there was a great deal of popular support for the suggestion that the whole district of Bellary should be treated as one and that there should be no division. My hon. Friend, Dr. Lakshmanaswami Mudaliyar also pleaded for this when he spoke on the motion this morning. I do not know why there should be this 'grabbing' for the three taluks in Bellary. Sir, whatever may be said of the other districts of Rayalaseema, it is an acknowledged fact that Bellary is a bi-lingual district and it is not known how the three taluks mentioned in the schedule come under the Andhra area and the rest belong to the Kanarese."

MR. PRESIDENT :—" The hon. Member will close in five minutes."

[7th January 1950]

SRI R. SURYANARAYANA RAO :—“ I am told, Sir, that the Government relied on what is known as the Kelkar Award. I have got a copy of the report by SRI N. C. Kelkar where he himself says:

“ The old census figures which were the only available figures at the moment, showed that in the aggregate a large majority of its taluks were Kanarese and not Telugu.”

Then he goes on :

“ I might have been justified even in awarding the whole of the Bellary district (for reasons already mentioned) to the Kanarese Provincial Congress Committee.”

These are the sentences that occur in the Kelkar Award. Though the opinion he held was this, he was compelled for other reasons, to come to a compromise and he had to give these taluks to the Andhra Provincial Congress Committee. Now the claim put forth by the Andhras is based on that.

“ I have another point to make. I have tried to impress upon the Hon. the Minister to consider the question of unitary control and administration of the Tungabhadra project. The Government know what amount of trouble they had with the Hyderabad Government to establish unitary control and administration in respect of the Tungabhadra dam. The project is to serve the whole district of Bellary and therefore, I strongly feel that it is necessary that the whole of Bellary should be treated as one unit. Whether it should form part of the Andhra Province or the residuary province, is a matter upon which, of course, I would like to have a say but I do not want to enter into the question since the Government of India have ruled out the possibility of the Kanarese-speaking taluks being under the Andhra Government. The construction of the project should go on without a hitch. This is a point on which all are agreed. So, it sounds curious that the Hon. Minister for Public Works in reply to an interpellation by me this morning should have said that while the taluks other than those contained in the schedule will form part of the residuary province, the construction of the project will be the responsibility of the Andhra Province. I am surprised that the Members on the Treasury Bench do not see the incongruity of such an arrangement. I hope that the Government of India will at least look into this matter. Now what is going to happen? The responsibility is transferred to the Andhra Province. But all the engineers in charge of the works are, unfortunately, Tamilians and may be withdrawn at any time. They cannot be forced to remain there and the result will be that the construction of dam and canal will be hindered. Therefore, in the interests of the people and the economic development of the area, it should continue to be one unit, whether it is going to form part of the Kanada or Telugu or Tamil Province ultimately. With these words, I move the amendment.”

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ Sir, I second the amendment.”

7th January 1950]

SRI B. BHIMA RAO :—" Mr. President, Sir, I do not want to take much time. I shall speak on all the amendments one by one, but for the present, I shall take up the third amendment moved by my hon. Friend, Mr. Suryanarayana Rao, that the districts of Chittoor, Cuddapah, Kurnool and Anantapur be deleted from the schedule. Sir, I was also one of the authors of the Sri Bagh Pact which has been printed on page 40 of the Dhar Committee's Report, otherwise known as the Linguistic Provinces Commission Report. The Sri Bagh Pact came up for discussion and approval at the Andhra Provincial Congress held in Tungabhadra in 1938. I do not know, Sir, whether you were present at that time."

MR. PRESIDENT :—" I was there at that time."

SRI B. BHIMA RAO :—" The late Raman Menon opened the Conference and my Hon. Friend, Mr. Gopala Reddi, who was present then, unfurled the Congress Flag. At that Conference, were also present, Mr. Diwakar, now Minister of State for Broadcasting and Information, Government of India, and Mr. Datar, lately Principal, Law College, Belgaum. This latter gentleman and many others have now gone to Delhi to give trouble to our beloved Prime Minister, Pandit Nehru, with the question of these three taluks which form the subject-matter of the four amendments before the House. Sir, at that Conference, you might remember, I was asked to represent the districts of Rayalaseema and accept the Pact on behalf of them. The late Konda Venkatappayya Pantulu moved the resolution about the Pact and it was said that it would be binding on and acted upon by the Andhra leaders. However, as you might have seen, Sir, from the answers given to questions put on the recruitment to services, Rayalaseema has all along been ignored and the Sri Bagh Pact has been honoured more in its breach than in its observance. But all the same, we are bound by the Pact and we must agree on the point that the Andhra Province must be formed with Rayalaseema with all the paraphernalia of a High Court and a Secretariat. It is a fact that justice has not been meted out to the Rayalaseema in the past as my hon. Friend complains. But yet . . ."

MR. PRESIDENT :—" Is the hon. Member supporting or opposing the amendment?" (Laughter.)

SRI B. BHIMA RAO :—" So far as this amendment is concerned, I oppose it, Sir."

MR. PRESIDENT :—" It would be better if hon. Members when they rise to speak, begin by saying whether they support, oppose or remain neutral."

SRI B. BHIMA RAO :—" I oppose the amendment. I signed the Pact on behalf of Rayalaseema and it has been sanctified on the sacred banks of Tungabhadra."

[7th January 1950]

MR. PRESIDENT:—"I thought you were complaining that since the Sri Bagh Pact was not being adhered to, you will be entitled to go back on it and objecting to including Rayalaseema in the Andhra area."

SRI B. BHIMA RAO:—"Although, Sir, it has not been observed strictly, it is our duty to see that in future at least it is observed to the letter. Now, about the one crore of rupees set apart as compensation for the buildings that the Andhras are to construct elsewhere: I think it is a pittance and I do not know how the Andhra gentlemen who were on the Partition Committee agreed to this sum. This is indeed humiliating and I hope that my Tamil brethren who have been just and generous in the past will show the same spirit of justice and generosity in this case also. The Dhar Committee's Report on page 19 says that at the present day the cost of constructing the Secretariat buildings will come to at least 10 crores of rupees. And with this one crore it will not be possible to construct even a High Court. Perhaps, in their anxiety to have the Province before the 26th January, the Andhra Members of the Committee had agreed to this arrangement, this humiliating arrangement. Of course, I have got a soft corner for my Andhra as well as Tamil brethren. I do not make any distinction. My attitude towards both is one of fraternity and brotherhood. That being the case, I am sure they will remove this humiliating condition."

2-30
p.m.

"The second point I want to say is, they are already committed in regard to the execution of the Tungabhadra project. That costs about 17½ crores in these days. When they agreed upon, as reported in the papers. . ."

MR. PRESIDENT:—"These are all points already raised. We are now pressed for time. If the hon. Member has got any additional points we will be glad to hear him. The hon. Mr. Suryanarayana Rao has already referred to those points. Also we would like to hear the Hon. Advocate-General. So, the hon. Member will finish soon."

SRI B. BHIMA RAO:—"In respect of the last amendment I am afraid, the ship of the Andhra Province is being wrecked upon the rocks of those three taluks (A voice: Bellary rocks:) Yes, Bellary rocks. That is what I thought when I listened to the radio last night at 9 p.m. The same note is reproduced in all the papers to-day. In the newspapers they have published to-day the report of a conversation, or of a Press Conference, by Pandit Jawaharlal Nehru. In that they have put a question to Panditji whether the Andhra Province will materialise on the 26th January. He said we will do our best to have it; we do not want to delay it by a day, but—there is a big but here—there is the question of the Bellary district and the three taluks mentioned. As I have already stated, a deputation of a dozen gentlemen from Bellary are waiting and troubling the Hon. Prime Minister of India."

7th January 1950]

[Sri B. Bhima Rao]

"Here, I would like to mention two or three instances and close my speech. The Ministers concerned do not know the geography of the Bellary district. Now, Sir, with regard to the Rayadrug the taluk last mentioned, it is in the southernmost portion. It is not contiguous with the other taluks of Adoni and Alur. And if one has to go to Adoni from this taluk, he has to come to Bellary and go to Adoni. This Rayadrug taluk begins at a distance of 9 miles from Bellary and at the 14th mile of the road is the Mysore State. This intervening territory was comprised in the Bellary taluk at the time of the Kelkar Award. If a man has to file a suit from a village in that area he is now asked to go to Adoni, which is at a distance of 61 miles—probably for a suit of Rs. 200 or Rs. 300. And then, in appealable cases he has to go to the Kurnool district which is 110 miles by road and 150 miles by train. Some of my constituents come and tell me, your Ministers have lost their balance of mind. In fact, they have used much stronger language and I do not wish to say that here, because it will be unparliamentary. There is another anomaly which the Ministers have committed. The Siruguppa taluk which is in Kannada area is attached to the jurisdiction of Adoni in regard to both civil and criminal matters, which is now in the Andhra Province, whereas the appeal jurisdiction is Kurnool. I am only quoting these two instances because we are pressed for time and I do not like to say more, but the area which is comprised in the several taluks are also known to Mr. Venkateswaran who was in that district for some time . . ."

MR. PRESIDENT:—"He says that all these things are likely to be revised. The Ministers are becoming wiser perhaps."

SRI B. BHIMA RAO:—"Unfortunately, when the Hon. Ministers are touring in motor cars they do not know which taluk commences where and whether it is Andhra or Karnataka."

"I would only refer to another point and close within two minutes. Somehow or other it was assumed that the Kelkar Award was to operate only for one year. At page 3 of this Award it is said like this:

"This issue (that is the issue of the Boundary Dispute) will have to be faced once for all, if the work of settlement of the Boundary disputes may not appear as an eternal business on the Agenda of the All-India Congress Committee. The new Census figures will soon be available for all the districts and taluks as are likely to become a bone of contention." He gave the Award in 1921 September and the figures were not available and printed till 1922. So it was merely a guess. It goes on "and I would like the All-India Congress Committee, as soon thereafter as possible, to notify all the Provincial Congress Committees concerned that they should immediately raise the issue, if they ever want to do so to get it settled for all contested areas for the next ten years, if not once for all, in that case the Committee will be able to direct a common procedure of settlement for all, and if a little time and energy must be spent on perfecting the re-grouping, it would be much better to do this as soon as possible and also on as large a scale as possible."

That is what he said. He expected the Boundary Commission to be constituted during the course of the next year, that is, 1922. But nothing was done in the intervening period. This

[Sri B. Bhima Rao]

[7th January 1950]

is after all a Congress organization and this is the constitution of an Andhra Province to be created by the Congress in power. Now the reins of administration will come into the hands of certain gentlemen who are anxious and ambitious and there will then be some kind of misunderstanding. So, Sir, this Kelkar Award was only tentative for a year.

“ Finally, Sir, as my hon. Friend Mr. Suryanarayana Rao, has said I would be satisfied if the integrity of the entire district is maintained.’ No doubt there is the fact that the majority of the population in the three taluks of Bellary speak Telugu. The partition that is proposed to be made does not appease either party. As I read the extract from the Dhar Committee Report, it says neither party accepted it. Both parties are dissatisfied with it. Hence I say it is a matter of the whole district being kept intact and till then these three taluks must be in the district as a whole. That was the representation made to both the Ministers—I find both of them are absent now—signed by 105 people out of 118 invitees to the conference held on 31st December 1949 at Bellary. They did not invite the members of the District Board of the three taluks, because the majority of them were outside the Andhra Congress Committee. They were all Kannada people. If they had come, they would have voted that the three taluks must be in the Bellary district. (Interruption :) Yes, why did the Government issue a communiqué saying that the representatives of these three taluks

MR. PRESIDENT:—“ I am afraid the hon. Member is straying away from the point.”

SRI B. BHIMA RAO:—“ That is why those three taluks must be excluded.”

SRI M. NARAYANA RAO:—“ Mr. President, Sir, at the outset I should say I had no intention of participating in the debate, but after hearing Mr. Narayanaswami Naidu who challenged us a number of times saying, what are the members on the other side going to do, I felt that I could not cast a silent vote. Since he referred to us a number of times, I feel I should explain my position before casting my vote on the amendment. There is no doubt, as we see in the papers, the report of the Partition Committee is very humiliating to the Andhras. We do not know how far it is true. We are going on talking about a thing about which we do not know anything. The whole thing is a secret and the Government are not able to give us any idea as to what the Partition Committee has done. It is a pity they are not able to give it out, and I appreciate the difficulty of the Government. It is the Central Government that has given them a direction and they have formed a Partition Committee accordingly. The report of that Committee has been forwarded by the Madras Government to the Central Government. It means that the Madras Government are only acting on the advice of the Central Government. The Madras Government are not

7th January 1950] [Sri M. Narayana Rao]

going to divide the Province, or the assets finally. They are neither the final authorities in fixing the seat of the High Court as they are only acting on behalf of the Central Government. That is the position of this Government. So much so, if they think that the whole thing is confidential, it is quite right they cannot divulge it. We have got the parental Government, the Central Government. Mr. Narayanaswami Naidu referred to one crore of rupees to be given as compensaton. I do not know how far it is true and the Government are in a delicate position, because they cannot say yes or no. Supposing what appeared in the papers is true even then there is no need for any alarm as it is not final. The A.P.C.C. convened a meeting and expressed in unequivocal terms that the Partition Committee report was one-sided and very humiliating to the Andhras and also there is the dissent of Sri Prakasam. Here, we have got the Central Government sitting over all these things and we cannot say that the one crore of rupees that is given by the Partition Council is the final thing. Even in the matter of the High Court what the Provincial Government have done is not final. I appeal to the hon. Leader of the House to communicate to the Central Government the opinions expressed in this House, because this Government have no voice in the matter, they are only acting on behalf of the Central Government. Now are they taking any decision over the matter. So, we will have to rely on the wisdom of Pandit Jawaharlal Nehru and also on the statesmanship of Sardar Patel. They are the two persons who can do it. They can even put it at two crores or more and do justice. I appeal from the floor of this House to Pandit Nehru and Sardar Patel to see that justice is done. I appeal to them also to take an impartial attitude. I say this one crore of rupees is very humiliating and it is a pittance. As a matter of fact, even without this pittance we can go magnanimously out of Madras. I do not know why my hon. Friends have agreed take to this pittance. We can walk out even without this. Our Tamil brothers happen to be big brothers and I do not think it is right on their part to send us away with this pittance. I agree with the arguments advanced by Mr. Narayanaswamy Naidu on this point. It is not a final thing and it is not a matter in which the Madras Government can interfere. I would appeal to Mr. Narayanaswami Naidu to go to Delhi and contact Pandit Nehru to see that justice is done to us. I believe justice will be done because what is due to us will be given to us in due time."

* THE ADVOCATE-GENERAL (Sri Rajah Ayyar):—" Sir, the purpose of this resolution is only to facilitate the bringing into existence of a separate High Court for the Andhra Province when it came into existence. There were two courses which were open. One course was to continue the existing High Court in its present condition with it existing Judges and with the same jurisdiction and that would have been perfectly possible if such a course were to be decided upon. In fact, there in one section.

[The Advocate-General] [7th January 1950]

section 225 of the new Constitution Act, which expressly enacts that the jurisdiction of and the law administered in any existing High Court and the respective powers of the judges thereof in relation to the administration of justice in the Court, shall be the same as immediately before the commencement of the Constitution. And there is this also. Both in the existing Government of India Act as well as in the new Constitution, it is perfectly competent for a High Court to extend its jurisdiction beyond the limits of its own Province. But, if the idea is not to continue the existing High Court as a common High Court for the residuary province, as well as for the new Province then the only way in which such a High Court can be brought into existence is by resort to section 229 of the present Government of India Act. When such a High Court comes into existence under section 229 of the Government of India Act, if matters were to remain as they are, and the Province has to be a single province, its principal seat can be located anywhere, because it will always be in the province. But, when the new Constitution comes into existence, there are several sections. For instance, sections 229, 230, 231 and 232 and one particular Entry, Entry No. 79 in Schedule VII, which make it perfectly clear that the principal seat of the High Court should be within the State. As I said just now, the conception of a High Court having its principal seat within the State and extending its jurisdiction beyond the limits of that State, is one which is very well contemplated by the Constitution Act. But the converse is novel, that is, when the High Court of a State functions from a place which is beyond its own limits. On the other hand, as I said, there are various anomalies which will arise, as to who is to be the Governor of the State, who is exercise the various functions in relation to the High Court, in respect of appointments of Officers and servants, etc., etc. The following are the words used in section 229 of the Constitution Act.

3-48
p.m. the Governor of the State in which the High Court has its principal seat may by rule require

and it is provided in sub-section (2) of the same section—

‘Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State in which the High Court has its principal seat.’

Then there is also provision made for a Consolidated Fund and any fees or other moneys taken by the Court is to form part of the Consolidated Fund and the salaries, allowances and pensions payable to officers and servants of the Court shall be a charge upon the Consolidated Fund. Then section 232 defines that the references to the Governor in relation to the Judges of a High Court shall be construed as references to the Governor of the State in which the Court has its principal seat and then it is stated that reference to the Consolidated Fund of the State shall be construed as a reference to the Consolidated Fund of the State in which the Court has its principal seat. These various sections, therefore, preclude the possibility of the High Court being situated in some

7th January 1950] [The Advocate-General]

other province. It is a statutory requirement that the principal seat of the High Court should be within the province and it is the Governor of that State that should exercise the powers of appointment of Judges, and regulate salaries, pensions, etc., in relation to that High Court. When the question arises as to what is meant by the principal seat, there may be some differences of opinion. As I said—the conception is a novel conception : such situations possibly except in times of War when I have been told that some countries had their High Courts in some other countries, is without precedent. But one thing is clear that the principal seat whatever it may be defined to be must be within the limits of that State if the constitution is to be given effect to. I am only driving to this, that if by any chance a provision is made that what would really be regarded as the principal seat of the High Court is located within the residuary province of Madras, then constitutional difficulties are likely to arise. Therefore it is that it has become necessary to locate the principal seat within the limits of the newly created province and outside the limits of the residuary province of Madras. That is why emphasis is laid in the resolution moved by the Government on that aspect of the matter in the following terms :—

and with its principal seat at a place situated within the said area.'

As I said, Sir, the difficulties are capable of being adjusted by friendly and mutual arrangement and so far as one can see it is not a matter which is difficult of being adjusted. That is the idea in which the situation is to be worked but whether there should be a declared office outside or whether there should be a Registrar, or an admission court or the Chief Justice should sit or other people should sit there, are matters in respect of which different views are possible. So far as a Corporation is concerned, the question has frequently arisen as to what is meant by its principal office and it has been said that it is the place wherefrom the general superintendence and management of the business of the Corporation is carried on. If that is to be applied to the High Court, the principal seat of the High Court may be defined as the place where the headquarters are located and wherefrom the executive and administrative control is carried on. Mr. President, Sir, reference has been made to the communication which has been addressed to the Government of India in which the opinion of the Government of India has been invited as to what the minimum requirements of the principal seat must be as they are going to constitute the High Court. What the minimum requirements are is a matter in respect of which possibly there may be controversy and it is not a matter which is likely to come up before the court for adjudication and somebody will have to decide what the minimum requirements are. Subject to the minimum requirements being satisfied, then the rest of it as regards accommodation, arrangement for carrying on the work with the least inconvenience either to the bar or the public or the clientele are matters for mutual adjustment between

[The Advocate-General] [7th January 1950]

the two Governments. I do not think that once the principal seat of the High Court is declared outside and steps are taken for purposes of locating the principal seat outside, any other constitutional difficulties are likely to arise. But one thing I can say is that if it is taken that something which is located in Madras should be deemed to be the principal seat of the High Court, then constitutional difficulties will arise according to the sections I have cited."

MR. PRESIDENT :—" I would like to ask the learned Advocate-General whether it was found difficult to continue the High Court as it stands giving it extended jurisdiction over the Andhra area; was that point canvassed and what is your view on it? "

THE ADVOCATE-GENERAL (Sri Rajah Ayyar) :—" There is no difficulty there, Sir. The High Court can be continued with extended jurisdiction, the same thing as was done in the case of Patna High Court in relation to Orissa. The Patna High Court exercised its jurisdiction over Orissa, till the new Province of Orissa had a High Court of its own." (An hon. Member rose.)

MR. PRESIDENT :—" The hon. Member can commence his speech if he feels he can finish within two minutes as we have to take the adjournment motion at four o'clock; it is now two minutes to four. Otherwise, he can resume his speech after the adjournment motion is concluded."

SRI G. VENKATA REDDI :—" I cannot finish."

II.—ADJOURNMENT MOTION—cont.

FAILURE OF THE GOVERNMENT TO CONSULT THE COUNCIL ON THE FORMATION OF ANDHRA PROVINCE—cont.

* DR. V. K. JOHN :—" Mr. President, Sir, I rise to move—
"that the business of the House be adjourned to discuss a definite matter of urgent public importance, namely,—

"The failure of the Government in carrying out their promise given on the 17th November 1949 that this House would be consulted on the question of the proposed partition of the Province and the scant courtesy shown by the Government to this House in this all important question affecting the welfare of this province, the usefulness and the very existence of this House, arriving at decisions and submitting a Report to the Government of India without consulting the Legislature in advance as promised by the Government on the 17th of November 1949 on the floor of the House."

4 p.m. " Sir, on the 17th November 1949, I moved an adjournment motion on the important question of the impending partition of the Province and the action of the Government thereon. Then,